

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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MARICIO LOPEZ, an individual,  
Plaintiff,

v.

STATE OF CALIFORNIA DEPARTMENT  
OF TRANSPORTATION, a government  
entity; and DOES 1-20,  
inclusive,

Defendants.

No. 2:25-cv-00707 WBS SCR

ORDER RE: DEFENDANT'S MOTION  
TO DISMISS

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Plaintiff Maricio Lopez brought this employment discrimination action against defendant State of California Department of Transportation ("Caltrans"), alleging discrimination on the basis of gender identity in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e et seq.; and the California Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code § 12940 et seq. (Docket No. 1.) Caltrans moved to dismiss. (Docket No. 7.)

At the June 9, 2025 hearing on the motion to dismiss

1 (see Docket No. 12), counsel for both parties agreed that the  
2 motion should be denied as to the Title VII claims because  
3 failure to exhaust administrative remedies is not "clear on the  
4 face of the complaint," see McIntyre v. Eugene Sch. Dist. 4J, 976  
5 F.3d 902, 909 n.6 (9th Cir. 2020), and granted as to the FEHA  
6 claims because they cannot be brought in federal court pursuant  
7 to the Eleventh Amendment, see Freeman v. Oakland Unified Sch.  
8 Dist., 179 F.3d 846, 846-47 (9th Cir. 1999).

9 IT IS THEREFORE ORDERED that defendant's motion to  
10 dismiss (Docket No. 7) be, and the same hereby is, DENIED as to  
11 the first and second claims brought under Title VII. The motion  
12 is GRANTED as to the third and fourth claims brought under FEHA,  
13 which are DISMISSED WITHOUT PREJUDICE to refiling in state court.

14 Dated: June 10, 2025

  
15 WILLIAM B. SHUBB  
16 UNITED STATES DISTRICT JUDGE

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